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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,877	03/23/2004	Landy Wang	2371	6614

7590 02/27/2006

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EXAMINER

LOHN, JOSHUA A

ART UNIT PAPER NUMBER

2114

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/808,877	Applicant(s) WANG ET AL.	
	Examiner Joshua A. Lohn	Art Unit 2114	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 January 2005.
 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1-5, 16 and 19 is/are rejected.
 7) ☒ Claim(s) 6-15, 17 and 18 is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/31/05</u> . | 6) <input type="checkbox"/> Other: _____ |

NON-FINAL REJECTION***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 16 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 15 of U.S. Patent No. 6,728,907. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations correspond to each other with only obvious changes. The limitation of “the storing information associated with the system crash of a particular type, the information including a stop code that identifies the particular type of the system crash” of the instant application is disclosed in the first limitation of the patent where the stop code is also stored to identify a type of system crash. The limitation of “reading the stop code from the information” of the instant application is disclosed in the second limitation of the patent, where the stop code is read from the location it

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was stored in. The limitation of “automatically initiating a diagnostic procedure associated with the stop code, the diagnostic procedure designed to identify an instruction or software component that caused the system crash by collecting data tailored to identifying errors of the particular type that caused the system crash” of the instant application is disclosed in the third limitation of the patent, where the initiated self-diagnostic procedure corresponds to the diagnostic procedure, and the reporting of results of the procedure associated with the stop code would obviously include identifying information relating to the cause of a system crash.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 16, and 19 are rejected under 35 U.S.C. 102(e) as being anticipated by Burckhardt et al., United States Patent number 6,101,617.

As per claim 1, Burckhardt discloses a computer-readable medium having computer-executable instructions, comprising: performing ordinary error checking until a system crash of a particular type occurs (Burckhardt, col. 7, lines 29-36, where errors are stored in a health log, which means some inherent form of error checking must have existed); and after the system crash, power on self tests, and initiation of booting to an operating system, executing instructions

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and automatically performing enhanced error checking, the enhanced error checking performed depending on the particular type of system crash and operating to assist in locating instructions or software components that caused the system crash (Burckhartt, col. 10, lines 9-28, where the enhanced error checking is the operation of the system following a particular type of system crash, the ASR timer reset where the reboot count has yet to reach the limit, this operation will assist in locating instructions that caused a system crash by normal error checking methods of col. 7, lines 29-36 mentioned above).

As per claim 2, Burckhartt discloses the computer-readable medium of claim 1, further comprising: upon the system crash, storing a stop code that identifies the particular type of system crash (Burckhartt, col. 7, lines 29-36, where the health log record the error causing the crash, such as an ASR timeout, which is functionally equivalent to the stop code); and after the power on self test and the initiation of booting to an operating system, retrieving the stop code and determining the enhanced error checking to perform based on the stop code (Burckhartt, col. 10, lines 9-28, where the stop code is the indication of the ASR reset status, which waits until after boot to initiate the enhanced error checking operation as mentioned above).

As per claim 3, Burckhartt discloses the computer-readable medium of claim 1, wherein the enhanced error checking is performed prior to a user diagnoses related to the system crash (Burckhartt, col. 7, lines 56-59, where an unattended recovery mode can be set to perform the enhanced error checking without a user diagnoses when the reset limit has not been reached, col. 10, lines 9-28).

As per claim 4, Burckhartt discloses the computer-readable medium of claim 1, wherein the enhanced error checking is performed without a user diagnoses related to the system crash

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(Burckhartt, col. 7, lines 56-59, where the unattended recover mode ensures that no user diagnosis is performed in relation to the enhanced error checking that is initiated as mentioned above, col. 10, lines 9-28).

As per claim 5, Burckhartt discloses the computer-readable medium of claim 1, wherein the enhanced error checking comprises checking resource-related operations (Burckhartt, col. 7, lines 29-36, where hardware and software errors are detected and it is inherent that any computer system hardware and software errors would involve the resources of the computer responsible for the functioning of the hardware and software).

As per claim 16, Burckhartt discloses a computer-readable medium having computer-executable instructions, comprising: storing information associated with the system crash of a particular type, the information including a stop code that identifies the particular type of system crash (Burckhartt, col. 7, lines 29-36, where the health log record the error causing the crash, such as an ASR timeout, which is functionally equivalent to the stop code); reading the stop code from the information; and automatically initiating a diagnostic procedure associated with the stop code, the diagnostic procedure designed to identify an instruction or software component that caused the system crash by collecting data tailored to identifying errors of the particular type that caused the system crash (Burckhartt, col. 10, lines 9-28, where the stop code is the indication of the ASR reset status, and where the diagnostic procedure is the operation of the system following the ASR timer reset where the reboot count has yet to reach the limit, this operation will assist in locating instructions that caused a system crash by utilizing the error detection mechanism error checking methods of col. 7, lines 29-36, where errors are stored in a health log, which means

some inherent form of error checking must have existed).

As per claim 19, Burckhardt discloses a method for determining the cause of a system crash, comprising: identifying a type associated with the system crash (Burckhardt, col. 7, lines 29-36, where the health log record the error causing the crash, such as an ASR timeout); rebooting to an operating system after the system crash (Burckhardt, col. 12, line 58 through col. 13, line 2); automatically collecting information based on the type as the operating system executes (Burckhardt, col. 10, lines 9-28, where the type of fault is looked at during the operating system bootup execution to determine the cause of the crash); and providing the information upon demand (Burckhardt, col. 7, lines 34-36, where the recorded errors, including the timeout faults, are able to be read out on demand).

Allowable Subject Matter

Claims 6-15, 17, and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is provided on form PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua A. Lohn whose telephone number is (571) 272-3661. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAL


SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER